4310-70

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC91

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior

ACTION: Proposed Rule

SUMMARY: The National Park Service has proposed this rule to designate areas where personal watercraft (PWC) may be used in Lake Mead National Recreation Area, Nevada and Arizona. This rule implements the provisions of the National Park Service (NPS) general regulation 36 CFR 3.24, authorizing parks to allow the use of PWC by promulgating a special regulation. The *NPS Management Policies 2001* require individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, overall management objectives, and consistent with the criteria of the NPS for managing visitor use.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be sent to Jim Holland, Management Assistant, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005. Email: LAME_PWCRULE@nps.gov. FAX: (702) 293-8967.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW, Room 7248, Washington, DC 20240. Phone: (202) 208-4206. Email: Kym_Hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Additional alternatives

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Draft Lake Management Plan/Environmental Impact Statement published April 24, 2002. The public should be aware that three other alternatives were presented in the DLMP/EIS, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Purposes of the park area

Lake Mead, and later Lake Mohave, and the area surrounding the artificial lakes were managed by the NPS under a cooperative agreement from 1936 to 1964 when Congress formally established Lake Mead National Recreation Area (Lake Mead NRA) (P.L.88-639). The Secretary of Interior was charged to manage this area "for the general purposes of public recreation, use and benefit…and, in a manner that will preserve the scenic, historic, scientific, and other important features of the area…"

Boating is a specific example of recreational activities authorized in the enabling legislation. It states that the Secretary may provide for the following activities, i.e., boating, subject to such limitations, conditions, or regulations as he may prescribe. Since 1936, the NPS has managed Lakes Mead and Mohave for a wide spectrum of recreational boating activities with few prohibitions on boat type other than boat length. The General Management Plan that evolved from this mandate reflects a strategy to accommodate visitor use while protecting the area's most outstanding natural and cultural resources.

The NPS has recently completed a "Draft Lake Management Plan/Environmental Impact Statement" that addresses recreational use of the lakes. The planning process began in 1993 with an extensive recreational inventory and visitor use survey that is reported in 1997. During the inventory and planning process, there have been numerous public meetings and presentations concerning the plan. Public scoping identified personal watercraft operating too close as an important issue to be addressed in the preparation of the plan. One of the planning objectives is to provide for a wide variety of recreational settings and to provide for a variety of recreational activities.

Description of the park area

Lake Mead NRA was established as a unit of the National Park System on October 8, 1964. Lake Mead NRA contains two artificially-created reservoirs: Lake Mead, created after the completion of Hoover Dam in 1936; and Lake Mohave, created after the completion of Davis Dam in 1953. Lake Mead NRA is the premier, inland water recreation area in the west with 1.5 million acres, of which approximately 13 percent is the lake environment. The major rivers supplying water to the reservoirs are the Colorado, Virgin, and Muddy Rivers. At full pool, Lake Mead has a surface area of

157,900 acres with over 700 miles of shoreline, and Lake Mohave has a surface area of 28,260 acres and 150 miles of shoreline.

Two Federal agencies are cooperatively involved with managing the water resources of the recreation area. The NPS administers the entire recreation area for recreation and resource protection purposes while the Bureau of Reclamation (BOR) is responsible for managing concurrently lake water levels and a 300-foot zone around the shoreline of both lakes. On Lake Mohave, there is an annual 15-foot water fluctuation zone between lake elevations of 630 and 645 feet msl. On Lake Mead, the water fluctuation can be much more significant. In the past ten years water levels have fluctuated between 1175 and 1216 feet msl, and are predicted to drop to 1160 feet msl within the next year.

Lake Mead NRA provides a wide variety of unique outdoor recreation opportunities ranging from warm-water recreation to exploration of rugged and isolated backcountry areas. The recreation area is estimated to generate over 500 million dollars directly for the local economy ("Business Plan, Lake Mead NRA, 2000"). Lake Mead NRA serves as a major focus in the western United States for public outdoor water recreation, which is at a premium in this desert environment. The area is within a day's drive of 20 million people in the Los Angeles Basin and 2.7 million people in the Phoenix Metropolitan Area. Lake Mead is also within a 20-minute drive of the 1.4 million people in the Las Vegas Valley, which is one of the fastest-growing communities and tourism destinations in the country. Rangers have noted that visitation from Utah and the Salt Lake City area is increasing in the northern parts of the recreation area.

The resources of Lake Mead NRA represent superlative examples of the plants, animals, and physical geography of the Mojave Desert, and the Colorado Plateau and Basin and Range geologic provinces. The park includes many regionally and nationally significant natural resource components including populations of federally listed threatened and endangered species of animals, birds, fish, and rare and sensitive plant species.

Specific to the lake environments, the inflow areas of Lake Mead, including the Virgin and Muddy River inflows on the north end of the Overton Arm, and the Colorado River inflow at Pearce Ferry are of particular importance for park resources. These areas resemble stream riparian and stream communities, with vegetation such as willows, cottonwood, sedges, and rushes. These areas provide excellent habitat to a variety of bird species, including the endangered Southwester willow flycatcher (*Empidonax traillii extimus*), several species of shorebirds, herons, and egrets. Potential habitat for the endangered Yuma clapper rail (*Rallus longirostris yumanensis*) exists in the recreation area at the inflow areas of the Muddy and Virgin River, at Las Vegas Wash upstream from the recreation area, and in the southern portion of the park near Davis Dam. No confirmed sightings have occurred within the recreation area.

In addition to these inflow areas, portions of the shoreline can provide habitat to other rare or sensitive species. The threatened bald eagle (*Haliaeetus leucocephalus*) is a winter visitor to the recreation area, and can be found in large trees and cliffs along the shoreline of both lakes. The Southwestern willow flycatcher has also been recorded along certain shoreline areas of Lake Mohave. Though no nesting has been confirmed, surveys have shown that flycatchers are in the area during nesting periods and could

potentially be utilizing shoreline and riparian areas where there is suitable habitat, for nesting. However, the majority of the shoreline in the recreation area is primarily comprised of non-native salt cedar (*Tamarix* spp.), with relatively few areas supporting native vegetation. Fluctuating water levels along the shoreline, particularly on Lake Mead, make restoration of vegetation communities difficult in most situations. In selected areas, salt cedar has been removed and native trees, such as willow and cottonwood, have been transplanted in an attempt to re-establish the native riparian habitat. Where transplants have been successful, and in other areas along Lake Mohave where larger stands of native vegetation exists, there is important habitat for bird species and other wildlife. The Arizona river otter has been reported in these areas, along with beavers, raccoons, and other wildlife species.

Two endemic fish species remain in the lakes, despite the alteration of the riverine environment as a result of the construction of the dams. The razorback sucker (*Xyrauchen texanus*) occurs in both lakes, with the largest remaining population in the Colorado River system inhabiting Lake Mohave. The bonytail chub (*Gila elegans*) exists in Lake Mohave. Both of these fish are listed as Federally Endangered Species. Lakes Mead and Mohave have been designated as critical habitat for the razorback sucker, and Lake Mohave has been designated as critical habitat for the bonytail chub. The humpback chub (*Gila cypha*) and the Colorado squawfish (*Ptychocheilus lucius*) are Federally Endangered Species that potentially could occur within the recreation area, although these species are now not found within the recreation area.

The Virgin River and its 100-year floodplain is proposed critical habitat for the Virgin River chub (*Gila seminuda*) and the woundfin (*Plagopterus argentissimus*), both

listed as Endangered Species. The Virgin River chub is presently found in the Virgin and Moapa (Muddy) rivers and the woundfin is found in the Virgin River, and could potentially be found within the recreation area.

The recreation area provides important habitat for the threatened desert tortoise (*Gopherus agassizii*). This habitat is generally in the desert scrub away from the shoreline areas. The relict leopard frog (*Rana onca*) is a species of concern in the recreation area. This species was once thought of as extinct, but has been recently found in certain springs within the recreation area. Some of these springs are located within walking distance of the lakes. However, since most of the critical areas for the frogs are located in areas with thick vegetation, visitors generally avoid these areas and impacts to frogs from recreational use have not occurred.

There are no listed threatened or endangered plant species in the recreation area, though there are a number of sensitive species that could be found along the shoreline and below high water levels. The Las Vegas bearpoppy (*Arctomecon californica*), the sticky ringstem (*Anulocaulis leiosolenus*), the threecorner milkvetch (*Astragalus geyeri* var. *triquetrus*), and the sticky buckwheat (*Eriogonum viscidulum*) are sensitive plant species that have been found around Lake Mead, below the high water level.

The area also represents a continuum of cultural resources from prehistoric to historic sites including several culturally sensitive areas with sacred and traditional significance to contemporary Native Americans. Only a small portion of the recreation area has been archeologically surveyed. These surveys have revealed that significant prehistoric and historic resources are known to occur along the shorelines, and under the waters, of Lake Mead and Mohave. More than 1,500 known archaeological sites exist in

the recreation area. Four archaeological complexes, the Grand Wash archaeological district, the Overton Beach archaeological district, the Lost City archaeological sites, and the Grapevine Canyon petroglyphs are listed on the National Register of Historic Places.

Historic resources related to settlement, ranching, mining, exploration, and the construction of Hoover Dam exist in the recreation area. These include more than 55 structures on the List of Classified Structures related to seven sites on the National Register of Historic Places. The recreation area also contains a variety of traditional cultural areas and sacred sites.

Motorized Watercraft

Lake Mead began backing up behind Hoover Dam in 1936. By 1937, the estimated visitor use of Lake Mead was 552,128. In the 1950s, Davis Dam was completed and Lake Mohave began to fill. Area visitation reached one million for the first time in 1946, two million in 1953, and three million in 1963. Water-based recreation during these early periods was primarily divided between shoreline use and boating. Boating activities included exploration of the newly formed reservoirs, and fishing. The early boats were primarily constructed of wood and small in size. They were vulnerable to winds in the open basins of lakes and boat swamping was the predominate boating accident recorded. By the 1970s, visitation had jumped to 6 million and there was a corresponding increase in boating activity. Lake Mead was being discovered as one of the premier, inland water recreation areas. During this period, boat construction was greatly improved with the majority of boats hulls manufactured with fiberglass. This greatly improved safety and reduced the boat swamping incidents. With the improved safety of boats on the water, the diversity of recreational activities increased. Exploration

and fishing continued to be popular, but water skiing and speed boating were increasing as recreational activities on both lakes.

Personal watercraft, primarily stand-up models, were first observed on Lakes Mead and Mohave in the mid-1970s. In the 1980s, the first sit-down one- or two-person models were available. From the mid-1980s through the mid-1990s, sales grew rapidly, then leveled off starting in the mid-1990s. According to visitor use surveys in 1993, use of personal watercraft at Lake Mead NRA during this time comprised 15 percent of the boats on the water at any one time. A rapid increase in personal watercraft was observed at Lake Mead NRA starting in 1994, when use doubled to 30 percent of the boats on the water at any one time. Today there are 11,000 personal watercraft registered in Clark County, Nevada and thousands more in the region surrounding Lake Mead NRA.

Many of the 9 to 10 million yearly visitors to the recreation area participate in water-based recreational activities, mostly between May and September, which are supported at the marina and launch ramp areas. There are six marinas and nine paved launch ramps on Lake Mead, and three marinas and four paved launch ramps on Lake Mohave. These marinas include Lake Mead, Las Vegas Bay, Callville Bay, Echo Bay, Overton Beach, and Temple Bar on Lake Mead, and Willow Beach, Cottonwood Cove, and Katherine Landing on Lake Mohave. The boat ramps are located at Hemenway, Government Wash, and South Cove on Lake Mead, and Princess Cove on Lake Mohave. A variety of services are provided at the marina areas, including boat rentals, personal watercraft rentals, marina slips, dry boat storage, restaurants, campgrounds, and lodging facilities.

Water-based recreation consists of motorboating, houseboating, sailboarding, sailing, canoeing, kayaking, rafting, water-skiing, wakeboarding, fishing, swimming, SCUBA, use of personal watercraft, picnicking, boat touring, nature study, and camping along the lakeshore. Recreationists also participate in land-based activities, such as driving tours, hiking, and camping in NPS or concessioner-operated campgrounds.

An analysis of recreational use of Lake Mead NRA was conducted between Memorial Day 1993 and Labor Day 1994 (Graefe 1997). A component of this study involved aerial and visitor use surveys to determine what recreational activities were occurring at specific locations within the recreation area, and the use levels at these locations. This study showed that the Boulder Basin of Lake Mead, and the Katherine area of Lake Mohave, are consistently the two busiest developed areas in the recreation area.

In addition to the developed areas, there are a number of coves that provide highly desirable recreational settings. Coves such as North and South Telephone, and Nevada Telephone Cove on Lake Mohave, and Government Wash, Boulder Beach, Sandy Cove and Sandy Point, Hamblin Bay and Rufus Bay on Lake Mead had the highest reported usage during the summer months according to the aerial surveys. According to the study, runabouts (defined as less than 24 feet in length) were the most common type of boat recorded, accounting for one-half of all boats on the lakes. Personal watercraft were the next most common type of vessel, accounting for 30 percent of the boats reported by respondents and in the aerial surveys. More personal watercraft were recorded on Lake Mohave (35 percent of all boats) than on Lake Mead (25 percent of all boats). Boating inventories showed that at peak use in the summer, there are over 5,000 boats on Lakes Mead and Mohave. It is estimated at peak use that there can be in excess of 1,000

personal watercraft operating on Lake Mead at any one time and over 700 on Lake Mohave. During the non-summer months, personal watercraft use declines as air and water temperatures decrease. Between November and March, there are few personal watercraft users on the lakes.

Today, personal watercraft are used throughout Lakes Mead and Mohave in numbers roughly equal to or slightly above 1993/1994 numbers, according to annual boat counts performed by the park over Labor Day weekend. The highest densities are observed in the urban interface areas of the lakes - the Boulder Basin of Lake Mead and in the lower portion of Lake Mohave. Today's models are capable of operating at speeds in excess of 60 miles per hour with engines producing 225 horsepower. Personal watercraft are quick and maneuverable. They can be operated at high speeds and are usually operated within ½ mile of the shoreline. They are used for the exploration of the lakes, to travel to popular beaches and coves, and for the speed and thrill of the ride. They can carry up to three passengers, or can pull a skier and carry an observer.

Personal watercraft users often congregate in shoreline accessible areas. A typical party will include two personal watercraft and 6 to 8 individuals. A base camp is established along the shoreline and use is rotated among the group. On Lake Mead, use is concentrated at Horsepower Cove, Saddle Cove, and Government Wash. Each of these sites is accessible by vehicle and within 30 minutes of the Las Vegas Valley. Similarly, on Lake Mohave, use is concentrated at Arizona and Nevada Telephone Coves and Cabinsite Point. Due to the narrow configuration of the lower portion of Lake Mohave, personal watercraft are required to mix with other boats and boating activities.

Personal watercraft are often used as tag-alongs with other boats. It is not uncommon to see personal watercraft being towed behind a houseboat as part of a houseboat vacation. Seldom are personal watercraft seen entering the more remote portions of the lake without the support of another vessel. Towable trailers are available for personal watercraft users that allow personal watercraft to bring camping gear and fuel to support their visit. These trailers are rarely observed on either Lakes Mead or Mohave.

The majority of personal watercraft are powered by conventional carburated two-cycle engines and have a typical operating life of 5-7 years (Correspondence from the Personal Watercraft Industry Association dated May 28, 2002). The newer personal watercraft with fuel injected two-cycle and four-cycle engines are available locally and comprise a significant percentage (60 – 75%) of new personal watercraft sales (Telephone Conversation of June 3, 2002, with Dan Boyle, Owner of Marine Products Pro Shop, a prominent personal watercraft dealer in Southern Nevada). The newer engines are advertised by manufacturers as being 30 percent more efficient than the earlier models. This means the vessels can travel 30 percent farther and produce 30 percent less emissions than the earlier models.

Incidents

Every year at Lake Mead NRA there are a number of boat accidents, and some involve personal watercraft. In 2000, there were 183 reported boat accidents at Lake Mead NRA, 181 in 1999, and 164 in 1998. Based upon data compiled in 1999 by the Nevada State Boating Law Administrator, who compiles and reports accident figures for all boating enforcement agencies, personal watercraft were involved in 33 percent of

reported Lake Mead NRA boat accidents. Thus, there were approximately 60 personal watercraft-involved boat accidents in 1999. In 1999, there was one motorboat accident fatality at Lake Mead NRA, and no personal watercraft-related fatalities. There were a total of 39 injury boat accidents at Lake Mead NRA in 1999; however, the number of personal watercraft boat accidents resulting in non-fatal injuries at Lake Mead NRA is not available.

Boater inexperience and lack of boater education are common factors in all recreational boat accidents, including accidents by personal watercraft operators. The speed, maneuverability, and the type of use can create dangerous conditions related to personal watercraft use. Often groups of people share several personal watercraft. Many lack the experience and education necessary to safely operate these vessels. Personal watercraft accidents commonly result from operation in close proximity to other personal watercraft, which is reflected in the number of fatalities and injuries related to blunt trauma. Operators of personal watercraft often show social behaviors distinct from operators of motorboats. Personal watercraft operators frequently maneuver close to other family members or friends who are swimming or wading, or on separate personal watercraft. Close-proximity operation among personal watercraft operators often involves chasing, following, "spraying", and dodging type activities.

This behavior is reported frequently at Lake Mead NRA by patrol rangers on the lakes, and it can lead to accidents and fatalities. In 1998**,** at Hemenway Harbor, Lake Mead, a male victim was struck by his son. Both were riding separately on borrowed personal watercraft, traveling in the same direction, the father in front. When the first personal watercraft ran out of fuel, it stalled, and the son struck the father. Neither had

experience or formal training. The father died from massive internal injuries to the chest and abdomen. Similar accidents occurred in 2001, where two men were killed, and one man was severely injured, in separate accidents when their personal watercraft were struck by another personal watercraft operated by their respective female companions. In the one accident the operators were attempting to splash each other with their personal watercraft. Lack of experience, knowledge, and training is also a factor in some accidents. In 1998, at Lake Mohave, a male operating a jet ski at night apparently hit some rocks near the shoreline while traveling at a high rate of speed and suffered severe head trauma.

There are statistics for incident reports and water-related offenses for all types of watercraft in the recreation area, but separate data for violation notices issue to personal watercraft operators are not maintained. However, the NPS anticipates modifying existing statistical software to accommodate separate statistics on incidents and notices involving PWC. The National Transportation Safety Board (NTSB) reports that the number of recreational boat accident fatalities have been declining nationwide in recent years; however, the number of personal watercraft-related fatalities have been increasing. A 1998 National Transportation Safety Board report states that personal watercraft boat accidents are the only type of recreational boat accident for which the leading cause of death is not drowning. The report indicates that more persons involved in personal watercraft fatalities die from blunt trauma than from drowning. A 1996 study by the National Association of State Boating Law Administrators indicates that personal watercraft were involved in approximately 36 percent of all boat accidents nationwide. Similarly, information from the National Marine Manufacturers Association (NMMA)

and the U.S. Coast Guard for 1996 and 1997 suggest that personal watercraft were involved in 36 percent of all boat accidents nationwide.

State and Local Boating Regulations

State and local boating regulations are addressed here because both federal and state agencies regulate boating on Lakes Mead and Mohave. The NPS enforces both federal regulations for inland waterways, and adopted non-conflicting state regulations of the States of Nevada and Arizona. There are significant differences between the agencies' boating regulations. Examples of these differences are: minimum age of operators, requirements for personal floatation devices, speed in proximity to other vessels and near shore areas, definition of personal watercraft, reckless operation, operation around dive flags, and boating education requirements.

According to the analysis of recreational use, 50 percent of the boaters on Lakes Mead and Mohave originate from California. In addition to the federal boating laws, California boaters must also operate under Nevada and Arizona boating laws. The age to operate a personal watercraft differs in each state; 12 in Arizona, 14 in Nevada (effective January 2003), and 16 in California. Nevada will require proof of boating education in 2003; neither Arizona or California have such a requirement. In addition to knowing the various state and federal laws, boaters must know where they are at any given time on the lakes to know which set of boating laws apply. There is a need for the various agencies to unify the boating laws to reduce the burden on boaters.

Resource Protection and Public Use Issues

The following summarizes the predominant resource protection and public use issues associated with PWC use at Lake Mead National Recreation Area. Each of these

issues is discussed in greater detail in the "Draft Lake Management Plan/Environmental Impact Statement" released for public review on April 24, 2002.

Wildlife and Wildlife Habitat: Park staff have noted through field observations that bird species can be disturbed from the operation of personal watercraft and boats. This is evident particularly in shallow areas and inflow regions where nesting sites could possibly be disturbed. Access to shoreline wildlife habitat by motorized vessels, including personal watercraft, could disturb wildlife through the interruption of normal activities, alarm or flight, avoidance and displacement of habitat, and nest abandonment. The combination of personal watercraft speed, noise, and ability to access shallow shoreline areas can disrupt riparian habitat areas critical to wildlife. At Lake Mead NRA of particular importance is bird habitat at the inflow areas of the Colorado, Muddy, and Virgin rivers, and along portions of Lake Mohave. The Muddy River inflow has restricted use during three months of the year under the management of the Nevada Division of Wildlife at the Overton Wildlife Management Area.

Aquatic habitat and species would be protected in the inflow area of the Virgin River, by the prohibition of all motorized vessels, including personal watercraft. Prohibiting the use of all motorized vessels in these areas would prevent the disturbance of important aquatic and nesting habitat from this use. This would be a beneficial impact to nesting and migratory bird species.

The added level of protection to the sensitive inflow area of the Virgin River from the prohibition of motorized vessels, including personal watercraft, would assure that wildlife species that rely on this for habitat, such as bird species, would be protected, allowing for the perpetuation of species diversity within these areas of the recreation area.

This would benefit bird species that use these areas on a broad scale as these areas are considered extremely important for migratory birds. Implementing a 100-foot flat-wake zone would slow vessels down to flat-wake speed within 100 feet of all the shoreline areas of Lakes Mead and Mohave. This would provide some protection to shoreline wildlife by reducing the impacts associated with speed, wake, and disturbance.

Threatened and Endangered Species: The use of motorized vessels, including personal watercraft, could disturb threatened and endangered species that occupy habitat close to or within Lake Mead and Lake Mohave. The species of concern that occupy shoreline or lake habitat include the Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), bald eagle (*Haliaeetus leucocephalus*), razorback sucker (*Xyrauchen texanus*), and the bonytail chub *(Gila elegans*). Designated critical habitat for the bonytail and razorback sucker would also be affected. Formal section 7 consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, was initiated April 24, 2002, to determine the possible effects of the "Draft Lake Management Plan/Environmental Impact Statement," including components related to the proposed rule.

Motorized use close to Southwestern willow flycatcher habitat could disturb this species and cause them to abandon the area, as described in the previous section under wildlife. Zoning to restrict motorized uses in the inflow area of the Virgin River would protect the most significant willow flycatcher habitat at Lake Mead NRA by eliminating the impacts from noise, wake, and the discharge of gasoline and gasoline-related compounds from motorized vessels. The 100-foot flat-wake zones established along the shoreline of Lake Mohave would also provide additional protection by reducing wake

and the disturbance associated with high speed operation of personal watercraft. No further zoning would occur at this time along Lake Mohave at potential willow flycatcher habitat. Although these no confirmed nests have been found at the sites along Lake Mohave, willow flycatchers have been recorded during nesting season and it is likely that nesting is occurring. Monitoring conducted by BOR and NPS biologists would continue along the shoreline of Lake Mohave for willow flycatchers. If nesting sites are found, temporal shoreline zoning to restrict motorized use during nesting season would be imposed. While overall effect of this alternative is beneficial to the species, nesting pairs or individuals could likely be adversely affected by continued recreational use near potential nesting sites along Lake Mohave. Personal watercraft use can not be singled out as a direct impact to this species since the most significant existing habitat and potential habitat occur in inflow areas that are frequented by all motorized users. Additionally, the habitat is very transitory and low lake levels have made motorized access to habitat and potential habitat nearly impossible by any recreational boat users.

No Yuma clapper rails have been recorded within Lake Mead NRA. However, potential Yuma clapper rail habitat would be protected in the Virgin inflow area where motorized use would be eliminated. Potential habitat is also located in Las Vegas Wash. Habitat restoration is ongoing within the forum of the Las Vegas Wash Coordination Committee and in ongoing projects within Lake Mead NRA that further protects and restores potential habitat in Las Vegas Wash. Due to these protective measures, the preferred alternative would not likely adversely affect the Yuma clapper rail.

The bald eagle is a non-breeding winter visitor to Lakes Mead and Mohave. The bald eagle occupies high cliffs and trees adjacent to the lakes. The annual winter bald

eagle count has shown increasing numbers for the past several years, with a record 79 bald eagles counted in 2002. Since recreational use of the lakes in the winter is low when the bald eagle is present, and visitation and motorized use, particularly personal watercraft use, during this period is expected to remain low in the future, we have determined that the proposed rule would not likely adversely affect the bald eagle.

The impacts of recreational use, including personal watercraft use, on endangered razorback suckers and bonytail chub, have not been thoroughly studied within the recreation area. Biologists studying the razorback sucker for the past ten years have noted that the use of motorized vessels in and around the razorback sucker spawning aggregations along the shorelines of Lake Mohave causes a great deal of turmoil. Passing watercraft interrupts spawning, displaces staging and spawning fish, disturbs substrates, and generally bothers the fish, their behavior, and their habitat. This is especially a concern where fish are using the shallower shoreline areas where boat motors and their noise and turbulence are in close proximity to the fish. Razorback suckers spawn in January through early April, and occupy specific shoreline areas at this time. It is likely that they are more sensitive to disturbance during this period, however, this is also a period of low visitor use on the lakes.

The use of motorized vessels, including personal watercraft, during the summer would not likely adversely affect razorback suckers since they do not spawn during that time. Increased visitor use during the shoulder seasons at spawning areas could likely adversely affect razorback suckers by interrupting their spawning activities. The NPS would continue to work with area biologists under the coordinated effort of the Native Fish Work Group to determine if temporal zoning of spawning areas should be imposed

between January and April. The 100-foot flat-wake zone would provide additional protection for the razorback sucker since spawning areas are close to the shoreline and this would reduce the impacts associated with disturbance.

Bonytail chub are known to spawn during May, when increasing numbers of visitors are using the lakes. It is likely that disturbances associated with the use of motorized vessels occur to this species, particularly during spawning. In addition, since the bonytail is known to spawn in the southern portion of Lake Mohave, where there is concentrated use by motorized vessels along the shoreline, there could be impacts to water quality from the use of motorized vessels. The bonytail chub would continue to be monitored by area biologists. The 100-foot flat-wake zone could reduce recreational use of spawning areas, thus reducing the impacts from motorized use. Future efforts could include temporal zoning of known spawning areas. Under Section 7, the NPS has determined that continued use by motorized vessels in spawning areas would likely adversely affect the razorback sucker and the bonytail chub. Personal watercraft use can not be singled out as a direct impact to these species. The NPS has been working with the Native Fish Work Group for the past ten years to monitor razorback sucker spawning areas. This extensive monitoring program, which includes capture and tagging of adult fish, and a larvae capture and rearing program, will continue into the future. Recreational use has been monitored by observation by the biologists who comprise the Native Fish Work Group. If recreational use increases in spawning areas, them temporal zoning would be imposed to close the spawning sites to all motorized use.

Shoreline Vegetation: Shoreline vegetation along Lake Mead consists primarily of non-native salt cedar (tamarisk). The shoreline vegetation along Lake Mohave is also

dominated by tamarisk, but there are periodic stands of native willows and cottonwood trees. The NPS has instituted a program to remove salt cedar at selected areas around the lakes. Native riparian species are planted at these areas, and native habitat could be restored if transplant efforts are successful. While recreational use along the shoreline areas could impact these species by direct cutting and trampling, personal watercraft use can not be singled out as a direct impact to these species.

Access to shoreline areas by recreationists could lead to the disturbance of sensitive plant species. Sensitive plants species that grow in sandy areas could be trampled by recreational use of these areas. Again, personal watercraft use can not be singled out as the sole source of this impact. This impact is minor compared with the fluctuating lake levels and overall use of the shoreline areas by all types of recreationists.

Water Quality: Two-cycle, non-fuel injected engines, which includes not only the majority of personal watercraft in use today but also other boats, can discharge up to 30 percent of their gas and oil emissions directly into the water ("Water Quality Concerns Related to Personal Watercraft, Final Report" NPS 1999). Hydrocarbons, benzene, toluene, and xylene are also released, as well as MTBE's. These discharges have the potential to adversely affect water quality where concentrated use occurs. While gasoline compounds do enter the lake from current boating use (including conventional two-cycle engines) and from other sources (such as fuel spills and parking lot runoff), due in part to the volume of the reservoirs and the high volatility of many of these compounds, concentrations have remained well below levels that are known to result in detrimental impacts on the aquatic system of Lakes Mead and Mohave, or on human health.

The Environmental Protection Agency (EPA) has adopted regulations (40 CFR Part 91) that require marine engine manufacturers, including manufacturers of personal watercraft, to improve the efficiency of engines by the year 2006. The EPA regulations prohibit the sale after 2006 of any PWCs that do not meet the EPA reduced emissions standards for marine vessel engines. The EPA expects a 50% reduction in hydrocarbon emissions from marine engines from present levels by 2020, and a 75% reduction by 2025 (EPA 1996). This rule, consistent with the conservation mandate in the NPS Organic Act, proposes to prohibit after 2012 the use of personal watercraft not meeting the EPA requirements, thus reducing the amount of gasoline and gasoline additives that are deposited into the lakes and enhancing the water quality of Lakes Mead and Mohave sooner than these benefits would be achieved relying soley on the EPA requirement. Until 2012, any carburated two-cycle engines, including personal watercraft, would continue to be allowed to operate on the lakes, with the exception of the ban on personal watercraft and other motorized uses in the sensitive inflow areas and in the Gypsum Reefs area and Grand Wash Bay. After final adoption of the "Draft Lake Management Plan/Environmental Impact Statement" the park will propose a similar rule for all watercraft engines. It is the goal to reduce emissions by motorized vessels before the full force of the EPA requirements are in place. In order to enforce such a regulation, the NPS would annually obtain a list of current engines produced by PWC and other boat engine manufacturers that meet the EPA requirements. Any craft not meeting the EPA engine requirements would be removed from the lake and could be ticketed and fined.

It is estimated that up to one-third of the fuel passes through the current two-cycle engines unburned. This can create a visible sheen on the water in high use areas of the

lakes. Based on fuel consumption estimates, between 1½ and 3 gallons of fuel is discharged into the water during a two-hour ride on a personal watercraft. During the summer weekends in high use areas, there can be up to 1,700 personal watercraft on the lakes. This could result in 1,275 to 3,400 gallons of unburned fuel discharged per hour into Lakes Mead and Mohave combined. A typical recreation day on Lake Mead is 5.2 hours, which means that on any given summer weekend day, up to 27,000 gallons of unburned fuel could be discharged into the lakes' waters of Lakes Mead and Mohave just from the use of personal watercraft. The EPA has cited studies concluding that approximately 65% of the discharged unburned fuel mixture evaporated from the water surface at air temperatures normally encountered during the boating season.

The elimination of carburated two-cycle engines in 2012 would eventually result in less fuel being discharged into the lakes from these engines. It would reduce the visible sheen on the water in high use coves. Prohibiting the use of motorized vessels in the Virgin River inflow area and the Gypsum Reefs area would likely improve water quality in these areas. However, recent studies have shown that changing from two-cycle carbureted engines to two-cycle fuel injected engines might increase PAH emissions. The full impact of this is not known, but scientific analysis would continue and hopefully resolve this issue. The large size of Lake Mead and Mohave, and the volatile nature of BTEX compounds eliminates the potential for the building of concentrations of chemicals that could result in the impairment of the aquatic system.

At all shoreline accessible sites personal watercraft fueling is an issue. Because the shoreline site used as a base for their visit is distant to a marina, most personal watercraft users bring fuel in containers to the lake. Fueling at the shoreline is dangerous

as some spillage is likely to occur into the water. Polluting or contaminating park areas waters or water courses is prohibited (36 C.F.R. § 2.14(6)). Higher levels of enforcement of the this regulation and increased education would help reduce the impacts from this activity.

Air Quality: Lake Mead NRA is designated as a class II air quality area under the Clean Air Act. The air quality of the Lake Mead region is in attainment of the national ambient air quality standards; however, some degradation of the air quality is evident throughout the lower elevations of the recreation area. The sources of air pollutants come primarily from outside the park and can concentrate, especially during periods of atmospheric inversion, in the park, causing visible smog. There are sources of air pollutants that are generated within the park, including pollutants contained in the exhaust of motorized vessels. The combustion process of motorized vessels results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides ($NO_x$), particulate matter (PM), and carbon monoxide (CO) (EPA). The EPA noted that gasoline outboards and personal watercraft account for approximately 5% of the national mobile sources of volatile organic compounds, which may cause areas with large boat populations to exceed 10% of the regional hydrocarbons inventory (EPA 2000). Some literature suggests that carburated two-cycle outboard engines and personal watercraft use create nearly as much atmospheric pollution as all cars in the United States. In a report on personal watercraft, the Izaak Walton League (IWL) stated that operating a 100-horsepower personal watercraft for seven hours generated air emissions equivalent to a 1998 passenger car operated for 100,000 miles (IWL 99). However, the personal watercraft groups state that the IWL data originated from tests comparing old technology

personal watercraft with automobiles specifically developed to meet California's most stringent emissions standards. In addition, the personal watercraft groups assert that all marine engines combined account for only 3% of the total hydrocarbon emissions in the United States (Seadoo 2000; American Watercraft Association [AWA] 2001). With the new technology, these emissions will eventually be reduced to less that 1%.

Although there is existing data showing that two-cycle engines emit pollutants into the air, there is little data that shows specifically what impacts personal watercraft emissions have on air quality. On Lakes Mead and Mohave, the current impacts from carburated two-cycle engines, including personal watercraft, occur intermittently in high-use areas, primarily between May and September. These impacts include visible smoke and the smell of exhaust and gasoline fumes. These impacts are considered moderate and have not been shown to exceed the national ambient air quality standards under the Clean Air Act or the EPA air quality index. The personal watercraft industry asserts that the highest volume selling models today are the cleaner-burning personal watercraft (PWIA 2001), therefore, there is expected to be some beneficial impacts up through 2012 as older models are replaced by the newer models. Once the proposed 2012 requirement prohibiting carburated two-cycle engines from the recreation area is in place, air quality is expected to improve in the high use coves where carburated two-cycle engines are currently heavily used. The EPA expects a 50% reduction in hydrocarbon emissions from marine engines from present levels by 2020, and a 75% reduction by 2025 (EPA 1996). The NPS proposed to prohibit after 2012 the use of personal watercraft not meeting the EPA requirements, therefore, the expected reductions in hydrocarbon emissions would be achieved in 2012, instead of the later dates as a result of the EPA requirements. After the

final adoption of the "Lake Management Plan/Environmental Impact Statement," the park will propose a similar rule for all watercraft engines.

Soundscapes: Most visitors to Lakes Mead and Mohave have expectations of noise from motorized vessels. According to visitor use surveys, more than 60% of all visitors to the recreation area utilized motorized vessels as part of their experience (Graefe and Holland 1997). On a typical summer weekend there are approximately 4,000 boats operating at any one time on the waters of Lakes Mead and Mohave. At peak use this number exceeds 5,000 boats, of which approximately 1,700 are personal watercraft. During these times the sound of boats can be continuous in the urban park and urban natural zones. Boat noise is noticeable in the rural natural zones during periods of high boating activity but there are extended periods when boating noise is not noticeable.

Noise from watercraft operating in excess of the noise decibel requirements could negatively impact visitors. Noise abatement is regulated by the NPS within Lake Mead NRA and other units of the National Park System (36 CFR, Part 3.7). "Operating a vessel in or upon inland waters so as to exceed a noise level of 82 decibels measured at a distance of 82 feet (25 meters) from the vessel is prohibited." These standards are difficult to enforce as they require estimation of distances in addition to monitoring sound. The NPS is proposing to amend 36 CFR 3.7 to a different SAE testing standard in order to make enforcement of our existing decibel level easier.

Boating noise is also regulated by the States of Nevada and Arizona. The respective states have developed standards relative to boat noise and these standards are enforced by state law enforcement officers on Lakes Mead and Mohave. Nevada has promulgated a new rule that includes a noise standard at any location in addition to the

specific standards at specific distances. This standard is 75 dbl at any speed or distance. Unaltered pre-1998 personal watercraft technology and current personal watercraft technology will meet this standard. The NPS will also be working with the states to try to develop a consistent noise standard that would be utilized by all enforcement officers.

The nature of the noise generated from personal watercraft may be more disturbing than other watercraft operating at similar decibels due to rapid changes in acceleration and direction typical of the operation of personal watercraft. These craft typically have a higher pitched engine sound and because the exhaust is emitted beneath the vessels, there are times when the pitch varies as the bottom of the craft is exposed. This occurs during turns or as the craft bounces on the water. The changes in pitch can be annoying to some visitors, but are within the federal and state noise standards described above. Some literature suggests that noise from personal watercraft could have a greater impact on wildlife in the inflow areas because of their speed and ability to access shallow-water areas more readily than other types of watercraft. This could force waterfowl and other shorebirds from their nests and habitat, causing nest abandonment, stress, and associated behavior changes.

The prohibition of all motorized vessels in the Virgin River inflow area and the Gypsum Reefs area would provide an area of the lake where human-generated noise is minimal. This could improve visitor experience for those seeking natural quiet, and would protect wildlife in these areas from the impacts associated with noise. The 100-foot flat-wake zone could also reduce noise impacts particularly from personal watercraft use close to the shoreline as personal watercraft would be forced to slow to flat-wake in those areas, thus slightly reducing the noise generated from their use.

In addition, manufacturers of personal watercraft are aware of the concerns of the public related to the noise of their operation. Although there is currently no legal requirement, manufacturers are currently taking steps to reduce the noise by using more rubber in construction and eliminating vibrations. It is anticipated the personal watercraft manufacturers will continue to reduce the noise associated with personal watercraft. As the existing fleet is converted to the newer engine technology by the year 2012, noise will also be significantly reduced since a secondary benefit of the EPA compliant engines is reduced noise emissions.

Visitor Use, Conflicts, and Safety: The objectives of the "Draft Lake Management Plan/Environmental Impact Statement" as they relate to visitor use, conflicts, and safety, are to provide a range of water-oriented recreational opportunities, provide a quality recreational setting, while reducing water and shoreline conflicts and protecting the natural and cultural resources of the recreation area. Visitor use surveys at Lake Mead NRA showed that some visitors believe that personal watercraft use creates conflicts among recreational user groups, mainly due to their noise, speed, and type of use (Graefe and Holland 1997). Other visitors believe that personal watercraft are no different from other motorized vessels. Nevertheless, conflict can occur between personal watercraft users and other recreationists, and this can lead to visitor dissatisfaction.

Personal watercraft would continue to be authorized in the majority of Lakes Mead and Mohave, except in the Virgin River inflow area and the Gypsum Beds areas (where all motorized use would be eliminated), Black Canyon above Willow Beach, Grand Wash, and where prohibited elsewhere with buoys or signs. These restrictions would provide for a range of recreational opportunities, and would eliminate conflict in

these areas between personal watercraft users and other recreationists. This will be particularly evident in the Black Canyon area, where the highest level of non-motorized use occurs in the recreation area.

The use of motorized vessels, including personal watercraft, can lead to unsafe conditions in certain circumstances, including reckless operation, operation at high speeds, operation in storms or inclement weather conditions, unsafe operation in high density boating areas, and operation by uneducated and/or inexperienced users. The operation of personal watercraft can be dangerous due to the nature of the watercraft. Personal watercraft have limited turning capabilities when not under propulsion. This has been one of the chief factors in personal watercraft-related accidents. Manufacturers are working to resolve this issue. In addition, personal watercraft can operate at high speeds close to the shoreline. This can create unsafe conditions and a safety hazard to other users, including swimmers, canoeists, kayakers, etc. The 100-foot shoreline flat-wake zone would improve the visitor experience by reducing the potential for accidents in shoreline areas and improve the safety of boaters, swimmers, and recreationists at the water's edge. It would eliminate the high-speed operation of personal watercraft within 100-feet of the shoreline of both lakes.

Authorizing PWC Use

Under the Preferred Alternative (Alternative C) of the "Draft Lake Management Plan/Environmental Impact Statement" and proposed rule, personal watercraft, along with other types of motorized vessels, would be allowed to operate at Lakes Mead and Mohave except areas closed for appropriate management reasons. Unrestricted motorized use would be allowed in the Rural Natural, Urban Natural and Urban Park

zones. All motorized use, including personal watercraft use, would be prohibited in the Primitive Zones. Motorized use of the Semi-Primitive Zones would be limited to 65 horsepower or less. These actions would prohibit use of personal watercraft in approximately 2 percent of the lake waters.

Specific areas affected by this zoning would be Grand Wash Bay, Gypsum Bay and Reefs, and Black Canyon from below the dam to the Willow Beach area. Black Canyon would be temporally zoned for the nine month period from Labor Day to Memorial Day to allow engines with less than 65 horsepower to operate in the zone five days per week and prohibiting all engines two days each week. Personal watercraft would be prohibited from this area because their engines are greater than 65 horsepower. There would also be boating prohibitions at the confluence of the Virgin River with Lake Mead. This area is relatively small and only include the mixing zones between the rivers and the lake. Use in this area would be restricted due to the sensitive nature of the habitat in these locations. Personal watercraft would also be prohibited in areas zoned for specific uses such as designated fishing areas and SCUBA areas. These specific zones are located in the urban interface areas associated with the Boulder Basin on Lake Mead and in the Katherine Landing area of Lake Mohave. A 100-foot flat-wake zone would be established around the shoreline of both Lakes Mead and Mohave, primarily for safety purposes, but could provide some minimum protection for shoreline wildlife.

As mentioned above the Environmental Protection Agency, as directed by the Clean Air Act, has adopted regulations for all marine engines, including personal watercraft. By the year 2006, all newly manufactured personal watercraft engines must meet specific emission requirements. It is estimated by the Personal Watercraft Industry

Association the life of a personal watercraft is five to seven years(PWIA 2002). The "Draft Lake Management Plan/Environmental Impact Statement" should be finalized in 2002. Therefore, allowing a ten-year transition period, by the year 2012, all two-cycle engines used at Lake Mead NRA would be required to meet the 2006 emission standards. This would allow for those who purchased a new personal watercraft this year to enjoy the anticipated life of that engine and would minimize the economic impact of the restriction for individual owners.

History of Public Involvement

Public meetings were initiated in January 1993 to help identify and summarize significant issues related to the management of recreation on Lakes Mead and Mohave. A notice of intent to prepare the "Lake Management Plan" and Environmental Impact Statement was published in the *Federal Register* (58 FR 26344) on May 3, 1993. Between January 1993 and September 2000, more than 100 public scoping meetings, public information meetings, and presentations on the development of a "Lake Management Plan" for Lake Mead NRA, were held throughout the area. Presentations were made to various groups, including local, county, state, and federal agencies, tribal representatives, concessioners, and various clubs. A mailing list of interested parties was compiled from attendees at the meetings and from any written comments received at the recreation area. In addition, a detailed visitor use inventory and survey of lake users was completed in 1994. In December 1996, a scoping issues newsletter was mailed to interested parties to provide an update on the issues related to the development of the plan. Public information meetings were held from May through July 1998, to provide more information on the development of the plan.

During this first comment period, Lake Mead NRA received more than 1,000 comment letters, the majority of them directly related to personal watercraft use. Comments ranged from the support of the continued use of personal watercraft throughout the recreation area, to a total ban on personal watercraft use, to restrictions in selected areas of the recreation area. Issues generated during the comment period included visitor safety concerns related to illegal and reckless operation of personal watercraft, conflicts among different user groups, educational requirements for all boaters, potential impacts to sensitive resources, and questions concerning the impacts of personal watercraft use related to other motorized vessels.

The Lake Mead NRA "Draft Lake Management Plan and Environmental Impact Statement" was made available for public review on April 24, 2002. The draft plan was available in hard copy, on computer disk, and on the park's website at www.nps.gov/lame/lmpdraft/home.htm. Public meetings were held with the release of the draft plan and proposed rule for personal watercraft use. These meetings were held at various locations to discuss the components of the "Draft Lake Management Plan/Environmental Impact Statement," and solicit public response related to all aspects of the plan, including the proposed rule for personal watercraft use. Public comments on the plan were excepted through June 26, 2002. This proposed rule is based on the preferred alternative in the "Draft Lake Management Plan/Environmental Impact Statement" and the comments submitted on the DLMP/EIS have not been incorporated into this proposed rule. Comments on both documents will be incorporated into the Final Lake Management Plan/Environmental Impact Statement and final rule.

COMPLIANCE WITH OTHER LAWS

**Regulatory Planning and Review (Executive Order 12866).**

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This determinate is based upon the findings in a report prepared by the National Park Service entitled "Economic Analysis of Personal Watercraft Regulations in Lake Mead National Recreation Area" (Law Engineering and Environmental Services, Inc., March 2002). The focus of this study was to document the impact of this rule on a variety of small entities including PWC dealerships and repair shops, PWC rental business, and other local businesses that provide services to PWC users.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the

rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule raises novel legal or policy issues. This rule is among the first of its kind for managing PWC use in National Park Units and the first for managing use in a National Recreation Area. The National Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirements of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

**Regulatory Flexibility Act**

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). See economic insert above.

**Small Business Regulatory Enforcement Fairness Act (SBREFA).**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The National Park Service has completed an economic analysis to make this determination. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have a significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

**Unfunded Mandates Reform Act.**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and imposes no other requirements on other agencies, governments, or the private sector.

**Takings (Executive Order 12630).**

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

**Federalism (Executive Order 13132).**

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This

proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

**Civil Justice Reform (Executive Order 12988)**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act.**

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

**National Environmental Policy Act.**

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared a draft Environmental Impact Statement (EIS). The draft EIS was made available for public review and comment on April 24, 2002. A copy of the Draft EIS is available by contacting the Superintendent, Lake Mead National Recreation Area.

**Government-to-Government Relationship with Tribes**

In accordance with the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951) and

512 DM 2: We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

**Clarity of Rule**

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example **§ 7.48 Lake Mead National Recreation Area**). (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also email the comments to this address: Exsec@ios.doi.gov.

DRAFTING INFORMATION: The primary authors of this regulation were Jim Holland, Park Planner; Nancy Hendricks, Resource Management Specialist; and Kevin Hendricks, Assistant Chief Ranger, Lake Mead National Recreation Area.

PUBLIC PARTICIPATION: If you wish to comment, you may submit your comments by any one of several methods. You may mail written comments to: Jim Holland, Management Assistant, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005. You may also comment via the Internet to lame_pwcrule@nps.gov. Please also include "PWC rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Jim Holland at the above address. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

**Authority**: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137(1981) and D.C. Code 40-721 (1981).

2. Section 7.48 is amended by adding paragraph (g) to read as follows:

§ 7.48 Lake Mead National Recreation Area

* * * * *

(g) Personal Watercraft (1) Personal watercraft may operate, transit and launch in park waters or beach on park land except in the following Primitive and Semi-primitive areas as described below and illustrated on the park management zones map:

(i) Arizona T33N;R16W Portions of sections 16, 17, 21, 22, 27, 28, 29, 33 and 34, and T32½ N;R16W Portions of Sections 32 and 33 known as Grand Wash Bay;

(ii) Arizona T31N;R20W Portions of sections 2, 3, 10 and 11 known as The Gypsum Beds;

(iii) Nevada T36N;R68E Portions of Sections 25, 26, 34, 35, 36 know as the Virgin River Bowl;

(iv) Nevada T22S;R65E Portions of Sections 32; T23S;R65E Portions of Sections 5, 8, 17, 20, 21, 28, 29, 34; T23½S;R65E Portions of Sections 34; T23S;R65E Portions of Sections 1, 2, and 12. Arizona T30N;R23W Portions of Sections 3, 10, 15, 22, 27, 34; T29N;R23W Portions of Sections 2, 12, 13; T29N;R22W Portions of Sections 18, 19, 20, 29; known as Black Canyon.

(2) Personal watercraft may not be operated at a speed in excess of flat-wake within 100 feet of any shoreline.

(3) Personal watercraft that do not meet the 2006 emission standards set by EPA for the manufacturing of two-cycle engines will be prohibited from operating within Lake

Mead NRA after December 31, 2012. All personal watercraft that meet the EPA 2006 emission standards through the use of direct-injection two-cycle or four-cycle engines shall not be affected by this prohibition and will be allowed to operate as described above.

(4) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

_____ _____

Craig Manson
Assistant Secretary for
Fish and Wildlife and Parks

Date